

Order

Michigan Supreme Court
Lansing, Michigan

May 24, 2006

Clifford W. Taylor,
Chief Justice

130097

Michael F. Cavanagh
Elizabeth A. Weaver
Marilyn Kelly
Maura D. Corrigan
Robert P. Young, Jr.
Stephen J. Markman,
Justices

PEOPLE OF THE STATE OF MICHIGAN,
Plaintiff-Appellee,

v

SC: 130097
COA: 261967
Wayne CC: 00-006096

JEREMEY HURLEY,
Defendant-Appellant.

On order of the Court, the application for leave to appeal the October 20, 2005 order of the Court of Appeals is considered and, pursuant to MCR 7.302(G)(1), in lieu of granting leave to appeal, we VACATE defendant's sentence and REMAND this case to the Wayne Circuit Court for resentencing. Defendant has demonstrated both good cause and actual prejudice, entitling him to relief under MCR 6.508(D). The sentence imposed was invalid. MCR 6.508(D)(3)(b)(iv). The sentencing guidelines placed defendant in an intermediate cell that required the imposition of a jail term, unless there was a substantial and compelling reason for a departure. MCL 769.34(4)(a). No substantial and compelling reason was offered to permit the imposition of a prison sentence. On remand, the circuit court shall sentence defendant within the appropriate sentencing guidelines range, or articulate on the record a substantial and compelling reason for departing from the sentencing guidelines range in accordance with *People v Babcock*, 469 Mich 247 (2003).

We do not retain jurisdiction.



s0517

I, Corbin R. Davis, Clerk of the Michigan Supreme Court, certify that the foregoing is a true and complete copy of the order entered at the direction of the Court.

May 24, 2006

Corbin R. Davis

Clerk